IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3190 OF 2007
IN
SUIT NO.232 OF 1989

Devendra C.Damania ..Plaintiff

Versus

Hiralal C.Damania ..Defendant

Mr.P.V.Bhagat i/by Vasant & Co. for plaintiff.

Mr.Prakash Ganwani i/by Vinod Mistry & Co. for defendant.

Coram : A.M.KHANWILKAR,J

Date : 5th September,2007

PC

1. Counsel for the defendant on instructions states that he is not pressing this motion and seeks liberty to apply for necessary relief in the cognate proceedings pending before this Court being Writ petition No.694/95. Motion allowed to be withdrawn with liberty as prayed for.

SUIT NO.232 OF 1989

1. Counsel for the parties have handed in draft issues. Accordingly, issues are settled and framed as follows :-

ISSUES

1. Whether this Hon'ble Court has jurisdiction to entertain the present suit in view of Defendant having filed the suit in S.C.C. being R.A.D.3786/88 which is prior in time ?

2. Whether the Defendant proves that the tenancy in the name of the plaintiff in respect of the suit premises is illegal, bad in law, ineffective and not binding upon the defendant as alleged in para 3 of the written statement ?

3. Whether the plaintiff is entitled to a declaration that the Defendant is a trespasser in the suit premises ?

4. Whether the Defendant proves that the plaintiff has no legal right or title to the suit premises as alleged in para 4 of the written statement ?

5. Whether the plaintiff proves that the Defendant is liable to pay compensation for wrongful use of the suit premises as per particulars of claim Ex."I" to the

plaint ?

6. Whether the plaintiff proves that the defendant is liable to pay damages as per particular of claim Ex."J" to the plaint ?

7. Does the plaintiff proves that he is in possession of the suit property as contended in plaint ?

8. Generally ?

9. What order ?

2. Issues have been framed. Matter will proceed for recording of evidence. Place the matter on 1.11.2007 under caption "For filing affidavit of evidence and documents".

(A.M.KHANWILKAR,J)